

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

EUGENE JOHN DEMARCO,

Case No. 22-72630 (AST)

Alleged Debtor.
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**STIPULATION AND ORDER FOR ENTRY OF CHAPTER 7 ORDER FOR RELIEF
AND GRANTING RELATED RELIEF**

This Stipulation and Order (the “Stipulation”) is entered into by and between (i) Anthony Pullan and Christoffel Johannes Viljoen, in their capacity as Foreign Representatives and Official and Deputy Assignees in Bankruptcy of the Property of Eugene John DeMarco (together, the “Foreign Representative”) and (ii) alleged debtor Eugene John DeMarco (the “Debtor,” and together with the Foreign Representative, the “Parties”).

RECITALS

WHEREAS, on September 29, 2022, the Foreign Representative commenced a chapter 7 involuntary case against the Debtor by the filing of a chapter 7 involuntary petition [Dkt. No. 1] (the “Involuntary Petition”); and

WHEREAS, on September 29, 2022 the Foreign Representative filed a motion to appoint an interim trustee [Dkt. No. 2] (the “Trustee Motion”); and

WHEREAS, on September 30, 2022, an Involuntary Summons was issued [Dkt. No. 3] (the “Summons”); and

WHEREAS, the Involuntary Petition, the Summons, and the Trustee Motion were each served by the Foreign Representative on the Debtor, as evidenced by affidavits of service filed by the Foreign Representative [Dkt. Nos. 5-9]; and

WHEREAS, a hearing was held by the Court on the Trustee Motion on October 6, 2022 (the “October 6 Hearing”); and

WHEREAS, at the October 6 Hearing, the Court granted, on the record, the Foreign Representative injunctive relief against the Debtor (the “Injunctive Relief”); and

WHEREAS, thereafter, on October 12, 2022, the Court entered a Temporary Restraining Order [Dkt. No. 10] (the “TRO”), confirming the Injunctive Relief; and

WHEREAS, a further hearing was held by the Court on the Trustee Motion and the TRO on October 18, 2022 (the “October 18 Hearing”); and

WHEREAS, at the October 18 Hearing, on the record and on consent of the Debtor and his counsel, the Court converted the TRO into a preliminary injunction (the “Preliminary Injunction”), extending the Injunctive Relief through and until November 11, 2022, subject to further extension; and

WHEREAS, on October 21, 2022, the Court entered a Contested Matter Scheduling Order (the “Scheduling Order”), scheduling an evidentiary hearing for November 9, 2022 for consideration of (i) the entry of a chapter 7 Order for Relief (the “Order for Relief”), (ii) the Trustee Motion, and (iii) the continuation of the Injunctive Relief contained in the TRO and/or Preliminary Injunction; and

WHEREAS, the Debtor has appeared in this case by counsel; and

WHEREAS, the Debtor acknowledges proper service of the Involuntary Petition, Summons, and the Trustee Motion and that the Debtor has no jurisdictional defenses to the entry of a chapter 7 Order for Relief; and

WHEREAS, the Debtor acknowledges that the Foreign Representative has the authority and standing to file the Involuntary Petition and that the Foreign Representative is entitled to the entry of a chapter 7 Order for Relief; and

WHEREAS, the Debtor acknowledges that the Injunctive Relief, TRO, and the Preliminary Injunction were each properly entered by the Court; and

WHEREAS, the Parties have engaged in settlement discussions regarding the relief sought by the Foreign Representative;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Stipulation and with the intent to be legally bound, the Parties hereby stipulate and agree as follows:

1. The Debtor consents to the immediate entry of a chapter 7 Order for Relief.
2. The Debtor consents to the immediate appointment of a chapter 7 trustee (the "Trustee") in the Debtor's chapter 7 bankruptcy case.
3. The Debtor consents to the extension of the Injunctive Relief, TRO, and/or Preliminary Injunction until such time as the Trustee is duly appointed and takes possession of the property of the Debtor's bankruptcy estate.
4. The Debtor shall remain subject to the Injunctive Relief, TRO, and the Preliminary Injunction and shall take no action, before or after the appointment of the Trustee, to convey, encumber, transfer, or otherwise dispose of any assets of the Debtor's bankruptcy estate, including, but not limited to, the real property located at 117 Burr Road, East Northport, New York.
5. This Stipulation may be executed in multiple counterparts and by original, electronic mail in Portable Document Format (PDF) or facsimile signatures, each of which shall

be deemed an original, but all of which taken together shall constitute one and the same executed original.

6. The Parties have participated in and jointly consented to the drafting of this Stipulation, and this Stipulation shall not be construed for or against either of the Parties on account of such drafting.

7. This Stipulation may not be amended or modified except by further written agreement executed by the Parties.

8. This Stipulation and all of its terms shall be binding and inure to the benefit of the Parties and each of their respective successors and assigns.


9. Except as otherwise expressly stated herein, this Stipulation constitutes the entire agreement of the Parties concerning the subject matter hereof, and supersedes any and all prior or contemporaneous agreements among the Parties concerning such subject matter. The Parties acknowledge that this Stipulation is not being executed in reliance on any oral or written agreement, promise or representation not contained herein.

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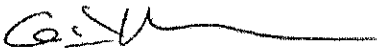
10. The Bankruptcy Court shall retain jurisdiction to resolve any disputes between the Parties with respect to this Stipulation.

Dated: Garden City, New York
November 1, 2022

LESTER KORINMAN KAMRAN
& MASTRI, P.C.

By: 
Peter K. Kamran, Esq.
600 Old Country Road, Suite 330
Garden City, New York 11530
Telephone: (516) 357-9191
Counsel to the Debtor

DEBTOR


By: _____
Eugene John DeMarco

SO ORDERED:

Dated: Garden City, New York
November 1, 2022

MEYER, SUOZZI, ENGLISH &
KLEIN, P.C.

By: s/ Edward J. LoBello
Edward J. LoBello, Esq.
Howard B. Kleinberg, Esq.
Jordan D. Weiss, Esq.
990 Stewart Avenue, Suite 300
Garden City, New York 11530
Telephone: (516) 741-6565
Counsel to the Foreign Representative